

AMENDED IN SENATE AUGUST 5, 2014

AMENDED IN SENATE JUNE 5, 2014

AMENDED IN ASSEMBLY APRIL 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2220

Introduced by Assembly Member Daly

February 20, 2014

An act to amend Sections 7583.32 and 7583.40 of, and to repeal and add Section 7583.39 of, the Business and Professions Code, and to amend Section 28235 of, and to add Chapter 4.1 (commencing with Section 28010) to Division 6 of Title 4 of Part 6 of, the Penal Code, relating to private security services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2220, as amended, Daly. Private security services: private patrol operators.

The Private Security Services Act provides for the licensure and regulation of private patrol operators by the Bureau of Security and Investigative Services in the Department of Consumer Affairs. The act requires a private patrol operator employing a security guard who carries a firearm to maintain an insurance policy that provides minimum limits of insurance of \$500,000 for any one loss due to bodily injury or death and \$500,000 for any one loss due to injury or destruction of property.

This bill would instead require the bureau to require a private patrol operator or applicant for licensure, as a condition precedent to licensure or continued licensure, to file or have on file with the bureau an insurance policy that provides minimum limits of insurance of \$1,000,000 for any one loss due to bodily injury or death and \$1,000,000

for any one loss due to injury or destruction of property as well as injury, including death, or property damage, or both, as specified, and a certificate of workers' compensation coverage for its employees issued by an admitted insurer.

The act requires a private patrol operator licensee, qualified manager of a licensee, or security guard who, in the course of his or her employment, may be required to carry a firearm, to satisfy specified requirements prior to carrying a firearm, including the completion of a course of training in the carrying and use of firearms. Existing law exempts from this requirement a duly appointed peace officer, as defined, who has successfully completed a course of study in the use of firearms. The act prohibits the bureau from renewing an expired firearms qualification card unless, among other requirements, the applicant has requalified on the range and successfully passed a written examination, as specified.

This bill would exempt a duly appointed peace officer, as defined, from the requirements of requalifying on the range and passing the written examination.

Existing law generally requires a transfer of a firearm to be conducted by a firearms dealer, and requires specified information about the purchaser and the firearm in the transaction to be submitted to the Department of Justice. The department has created a form for this purpose known as the Dealers' Record of Sale form or DROS form. Existing law authorizes the department to charge a fee for the costs associated with the submission of the DROS form. Existing law does not authorize a business entity to own or register a firearm.

This bill would establish procedures, *operative July 1, 2016*, allowing a Private Patrol Operator (PPO) business entity to be the ~~legal and~~ registered owner of a firearm. The bill would state findings and declarations of the Legislature, and express the intent of the Legislature in connection with these procedures. The bill would direct the Department of Justice to modify the DROS form and create a certificate of assignment (COA), and to charge a reasonable fee for the filing and processing of the COA for these purposes and for enforcement of these provisions. Among other things, the bill would allow a security guard to be assigned a firearm by the PPO through a COA, as specified, and for a firearm custodian to be designated by the PPO. The bill would require submission to the Department of Justice of information pertaining to the ownership of a firearm by a PPO, the assignment of a firearm by a PPO, and the identity of a PPO firearms custodian, as

specified. *The bill would require PPO-owned firearms acquired prior to July 1, 2016, to be registered, as specified.* The bill would provide that an assignment of a firearm by a PPO to a security guard employee for purposes of employment duties would not constitute a loan, sale, or transfer of a firearm. *The bill would authorize the Director of Consumer Affairs, through his or her designee, to assess an administrative fine of up to \$1,000 against a PPO for each willful violation of these and other provisions of the bill relating to firearms.* The bill would require a security guard, upon request by the PPO, or upon separation of employment or revocation of the security guard’s firearm qualification card, and within 48 hours, to return the assigned firearm to the PPO. The bill would provide that the failure of a security guard to return an assigned firearm as required would be a misdemeanor. By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 7583.32 of the Business and Professions
- 2 Code is amended to read:
- 3 7583.32. (a) A firearms qualification card expires two years
- 4 from the date of issuance, if not renewed. A person who wishes
- 5 to renew a firearms qualification card shall file an application for
- 6 renewal at least 60 days prior to the card’s expiration. A person
- 7 whose card has expired shall not carry a firearm until he or she
- 8 has been issued a renewal card by the bureau.
- 9 (b) The bureau shall not renew a firearms qualification card
- 10 unless all of the following conditions are satisfied:
- 11 (1) The cardholder has filed with the bureau a completed
- 12 application for renewal of a firearms qualification card, on a form
- 13 prescribed by the director, dated and signed by the applicant under
- 14 penalty of perjury certifying that the information on the application
- 15 is true and correct.

1 (2) The applicant has requalified on the range and has
2 successfully passed a written examination based on course content
3 as specified in the firearms training manual approved by the
4 department and taught at a training facility approved by the bureau.

5 (3) The application is accompanied by a firearms requalification
6 fee as prescribed in this chapter.

7 (4) The applicant has produced evidence to the firearm training
8 facility, either upon receiving his or her original qualification card
9 or upon filing for renewal of that card, that he or she is a citizen
10 of the United States or has permanent legal alien status in the
11 United States. Evidence of citizenship or permanent legal alien
12 status is that deemed sufficient by the bureau to ensure compliance
13 with federal laws prohibiting possession of firearms by persons
14 unlawfully in the United States and may include, but not be limited
15 to, Department of Justice, Immigration and Naturalization Service
16 Form I-151 or I-551, Alien Registration Receipt Card,
17 naturalization documents, or birth certificates evidencing lawful
18 residence or status in the United States.

19 (c) An expired firearms qualification card may not be renewed.
20 A person with an expired registration is required to apply for a
21 new firearms qualification in the manner required of persons not
22 previously registered. A person whose card has expired shall not
23 carry a firearm until he or she has been issued a new firearms
24 qualification card by the bureau.

25 (d) Paragraph (2) of subdivision (b) shall not apply to a duly
26 appointed peace officer, as defined in Chapter 4.5 (commencing
27 with Section 830) of Title 3 of Part 2 of the Penal Code.

28 SEC. 2. Section 7583.39 of the Business and Professions Code
29 is repealed.

30 SEC. 3. Section 7583.39 is added to the Business and
31 Professions Code, to read:

32 7583.39. The bureau shall require, as a condition precedent to
33 the issuance, reinstatement, reactivation, renewal, or continued
34 maintenance of a license, that the applicant or licensee file or have
35 on file with the bureau the following:

- 36 (a) An insurance policy, as defined in Section 7583.40.
- 37 (b) A certificate of workers' compensation coverage for its
38 employees issued by an admitted insurer.

39 SEC. 4. Section 7583.40 of the Business and Professions Code
40 is amended to read:

1 7583.40. “Insurance policy,” as used in this article, means a
 2 ~~contract of liability~~ *commercial general liability policy of insurance*
 3 issued by an insurance company authorized to transact business
 4 in this state that provides minimum limits of insurance of one
 5 million dollars (\$1,000,000) for any one loss *or occurrence* due
 6 to ~~bodily injury or death and one million dollars (\$1,000,000) for~~
 7 ~~any one loss due to injury or destruction of property.~~ *injury,*
 8 *including death, or property damage, or both.*

9 SEC. 5. Chapter 4.1 (commencing with Section 28010) is added
 10 to Division 6 of Title 4 of Part 6 of the Penal Code, to read:

11
 12 CHAPTER 4.1. REGISTRATION AND ASSIGNMENT OF FIREARMS
 13 BY PRIVATE PATROL OPERATORS
 14

15 28010. (a) The Legislature finds and declares that current
 16 practices and statutes authorize the purchase, registration, and
 17 ownership of firearms by an individual, but not by a business entity.

18 (b) It is the intent of the Legislature in enacting this chapter to
 19 allow business ownership and registration of firearms in the case
 20 of licensed Private Patrol Operators (PPOs) who are actively
 21 providing armed private contract security services. It is further the
 22 intent of the Legislature to establish procedures whereby a PPO
 23 may assign firearms it owns to its employees who are licensed to
 24 carry firearms and that assignment of a firearm by a PPO to that
 25 employee would not constitute a loan, sale, or transfer of a firearm.

26 (c) It is the intent of the Legislature to require notification of
 27 the Bureau of Security and Investigative Services any time a
 28 security guard is listed on the Prohibited Armed Persons File so
 29 that the bureau may proceed with appropriate action regarding the
 30 licensing of the employee.

31 (d) For purposes of this chapter, “private patrol operator” or
 32 “PPO” means a private patrol operator licensed pursuant to Chapter
 33 11.5 (commencing with Section 7580) of Division 3 of the Business
 34 and Professions Code.

35 (e) For purposes of this chapter, “bureau” means the Bureau of
 36 Security and Investigative Services within the Department of
 37 Consumer Affairs.

38 (f) For purposes of this chapter, “department” means the
 39 Department of Justice.

1 28012. (a) A PPO may be the ~~legal~~ and registered owner of a
2 firearm *if the PPO is registered with the department pursuant to*
3 *procedures established by the department.*

4 (b) The department shall modify the department's Dealers'
5 Record of Sale (DROS) form to allow a PPO to be listed as the
6 purchaser and ~~legal~~ *registered* owner of a firearm. The form shall
7 also require the PPO to identify its type of business formation and
8 to include any tax identification number or other identifying
9 number of the PPO that may be required by the department.

10 (c) (1) The department shall modify the department's DROS
11 form to require the PPO to designate a "firearms custodian" for
12 the firearm owned by the PPO that is listed in the DROS. A
13 firearms custodian shall possess a valid firearms qualification
14 permit issued by the Department of Consumer Affairs. ~~A firearm~~
15 ~~shall not be assigned by a PPO pursuant to this chapter if the PPO~~
16 ~~does not have a designated firearms custodian for the firearm.~~ A
17 firearms custodian is responsible for the tracking, safekeeping,
18 and inventory of those firearms of the PPO for which the custodian
19 is designated, and shall serve as a point of contact for the
20 department regarding the firearms for which the custodian is
21 designated.

22 (2) ~~If a firearms custodian ceases to be employed by the PPO,~~
23 ~~is no longer employed by the PPO in that capacity,~~ or otherwise
24 becomes ineligible to be the firearms custodian, the PPO shall
25 notify the department of that ~~fact,~~ *fact within seven days* in a
26 manner prescribed by the department, and the PPO shall ~~designate~~
27 ~~a~~ *notify the department of the designated* replacement firearms
28 custodian within 30 days of ~~that~~ *the original* notice.

29 (d) A security guard shall possess a valid firearm qualification
30 permit prior to receiving a firearm from a PPO pursuant to a
31 Certificate of Assignment (COA). A firearm shall ~~only~~ be assigned
32 by a PPO to a security guard who is assigned to work ~~at an account~~
33 ~~of~~ *for the PPO only when that employment* requires the security
34 guard to be armed.

35 (e) (1) (A) The department shall prescribe a "Certificate of
36 Assignment" or "COA." The COA ~~shall contain the same fields~~
37 ~~as may include fields that are in the DROS form,~~ and shall be used
38 to identify the employee of the PPO who has been assigned a
39 *PPO-owned* firearm by the PPO pursuant to this chapter.

1 (B) The COA shall also be used to identify an employee of the
2 PPO who will use his or her own firearm in the course of his or
3 her duties as a security guard. The COA shall not require specific
4 information regarding an employee-owned firearm.

5 (2) A PPO shall register a PPO-owned firearm acquired prior
6 to July 1, 2016, as a PPO-owned firearm in a manner prescribed
7 by the department prior to filing a COA for that firearm.

8 ~~(2)~~

9 (3) Upon the PPO assigning a firearm to an employee who is a
10 security guard—~~licensed~~ registered pursuant to Chapter 11.5
11 (commencing with Section 7580) of Division 3 of the Business
12 and Professions Code, the ~~licensed security guard~~ PPO shall
13 complete the COA, and the PPO shall file the COA and file it with
14 the department in a timely manner as prescribed by the department.

15 (f) The department shall cause the information contained on the
16 COA to be entered into the Automated Firearms System in a timely
17 manner.

18 (g) If a security guard becomes listed on the Prohibited Armed
19 Persons File, the department shall immediately notify the bureau
20 of the listing by secured electronic delivery. Upon that notification,
21 the bureau shall take appropriate action regarding the security
22 guard and, if necessary, the PPO. In addition, the department shall
23 notify the PPO, in the manner the department deems appropriate,
24 that the PPO employee is prohibited from being armed. This
25 chapter does not prohibit the department from also notifying the
26 bureau if a security guard has been arrested and charged with an
27 offense that, upon conviction, would constitute a basis for
28 revocation of a firearms qualification permit or security guard
29 registration.

30 28014. The department shall charge a fee not to exceed the
31 reasonable costs to the department for filing and processing a COA,
32 and for the costs incurred in ~~enforcing the implementation and~~
33 ~~administration of~~ this chapter, including, but not limited to, entering
34 information obtained pursuant to this chapter into the Automated
35 Firearms System and other databases as deemed necessary by the
36 department. The fee shall be deposited in the Dealers' Record of
37 Sale Special Account.

38 28016. (a) If the PPO ceases to do business, ceases to possess
39 a valid PPO license as determined by the Director of Consumer
40 Affairs, ceases as a business entity, or changes its type of business

1 formation, the PPO shall, within 30 days and unless otherwise
2 prohibited by law, ~~complete new DROS forms for all PPO-owned~~
3 ~~firearms and transfer those firearms to a new owner. lawfully sell~~
4 ~~or transfer all PPO-owned firearms.~~

5 (b) A PPO shall notify the department of the sale or transfer of
6 a PPO-owned firearm within five business days of the transaction
7 in a manner prescribed by the department. This subdivision shall
8 not apply if the sale or transfer was made to or through a licensed
9 firearms dealer pursuant to Chapter 5 (commencing with Section
10 28050).

11 28018. Notwithstanding any other law, an assignment of a
12 firearm pursuant to this chapter shall not constitute a loan, sale, or
13 transfer of a firearm.

14 28020. (a) Within 48 hours of the PPO's request, for any
15 reason, or within 48 hours of separation of employment or
16 revocation of the firearm qualification card, the security guard
17 shall return to the PPO the firearm owned by the PPO and listed
18 on a COA.

19 (b) The failure of a security guard to comply with subdivision
20 (a) is a misdemeanor.

21 (c) *If a security guard employed by a PPO does not comply with*
22 *subdivision (a), the PPO shall notify the bureau within seven*
23 *business days after the PPO becomes aware of the violation of*
24 *subdivision (a).*

25 (e)

26 (d) This chapter does not limit the right of a ~~licensed registered~~
27 security guard to use, possess, or otherwise lawfully carry a firearm
28 owned by that ~~licensed registered~~ security guard.

29 28022. (a) *The Director of Consumer Affairs, through his or*
30 *her designee, may assess an administrative fine of up to one*
31 *thousand dollars (\$1,000) against a PPO for each willful violation*
32 *of this chapter. All fines collected pursuant to this chapter shall*
33 *be deposited in the Private Security Services Fund.*

34 (b) *An assessment imposed pursuant to this section may be*
35 *appealed pursuant to Section 7581.3 of the Business and*
36 *Professions Code.*

37 28024. *This chapter shall become operative on July 1, 2016.*

38 SEC. 6. Section 28235 of the Penal Code is amended to read:

39 28235. All ~~money~~ moneys received by the department pursuant
40 to this article shall be deposited in the Dealers' Record of Sale

1 Special Account of the General Fund, which is hereby created, to
2 be available, upon appropriation by the Legislature, for expenditure
3 by the department to offset the costs incurred pursuant to any of
4 the following:

- 5 (a) This article.
- 6 (b) Section 18910.
- 7 (c) Section 27555.
- 8 (d) Subdivisions (d) and (e) of Section 27560.
- 9 (e) Chapter 4.1 (commencing with Section 28010).
- 10 (f) Article 6 (commencing with Section 28450).
- 11 (g) Section 31110.
- 12 (h) Section 31115.
- 13 (i) Subdivision (a) of Section 32020.
- 14 (j) Section 32670.
- 15 (k) Section 33320.

16 SEC. 7. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 the only costs that may be incurred by a local agency or school
19 district will be incurred because this act creates a new crime or
20 infraction, eliminates a crime or infraction, or changes the penalty
21 for a crime or infraction, within the meaning of Section 17556 of
22 the Government Code, or changes the definition of a crime within
23 the meaning of Section 6 of Article XIII B of the California
24 Constitution.